

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**HUNTINGTON DIVISION**

JOHN BAXLEY, JR.,  
EARL EDMONDSON,  
JOSHUA HALL,  
DONNA WELLS-WRIGHT,  
HEATHER REED, and  
DANNY SPIKER, JR. on their own behalf  
and on behalf of others similarly situated,

Plaintiffs,

v.

CIVIL ACTION NO. 3:18-1526


BETSY JIVIDEN, in her official capacity  
as Commissioner of the West Virginia  
Division of Corrections and Rehabilitation,

Defendant.

**ORDER**

Pending before the Court is Defendant Betsy Jividen's Motion to Dismiss Plaintiffs' Count II Claim. ECF No. 589. Pursuant to Rule 41(a)(1)(A)(ii), Plaintiffs and Defendant have since filed a Stipulation of Dismissal of Count II. ECF No. 603. Accordingly, the Motion is **DENIED AS MOOT**.

ENTER: April 25, 2022

  
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ROBERT C. CHAMBERS  
UNITED STATES DISTRICT JUDGE